

1
2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Sean Patrick Husband,
10 Petitioner,
11 v.
12 Charles L. Ryan, et al.,
13 Respondents.
14

No. CV-13-01320-PHX-DLR
ORDER

15
16 Pending before the Court are Petitioner Sean Patrick Husband's Petition for Writ
17 of Habeas Corpus and United States Magistrate Judge Mark E. Aspey's Report and
18 Recommendation ("R&R"). (Docs. 1, 41.) The R&R recommends that the Court deny
19 the Petition. (Doc. 41 at 38.) The Magistrate Judge advised the parties that they had
20 fourteen days to file objections to the R&R and that failure to file timely objections could
21 be considered a waiver of the right to obtain review of the R&R. (*Id.* at 38–39 (citing
22 Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
23 2003)).

24 Respondents did not file an objection. Petitioner filed an objection on February 9,
25 2015, which the Court struck on March 18, 2015, for failure to comply with the Local
26 Rules of Civil Procedure. (Doc. 49.) The Court granted Petitioner leave to file an
27 amended objection by April 2, 2015. (*Id.*) Petitioner did not file an amended objection,
28 and the Court adopted the R&R on April 16, 2015. (Doc. 50.)

1 About two weeks later, Petitioner filed a Motion to Reconsider and/or Vacate
2 Judgment and Alternatively for an Extension of Time, claiming that he never received the
3 Court's order striking in his objection and that he was unaware that no objection was on
4 the record. (Doc. 52.) After a hearing on May 13, 2015, the Court granted Petitioner's
5 motion and gave Petitioner leave to file an objection by May 20, 2015. (Doc. 54.)

6 Petitioner has not filed an objection, which relieves the Court of its obligation to
7 review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149
8 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is
9 not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must
10 determine de novo any part of the magistrate judge's disposition that has been properly
11 objected to.”). The Court has nonetheless reviewed the R&R and finds that it is well-
12 taken. The Court will accept the R&R and deny the Petition. *See* 28 U.S.C. § 636(b)(1)
13 (stating that the district court “may accept, reject, or modify, in whole or in part, the
14 findings or recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The
15 district judge may accept, reject, or modify the recommended disposition; receive further
16 evidence; or return the matter to the magistrate judge with instructions.”). Accordingly,

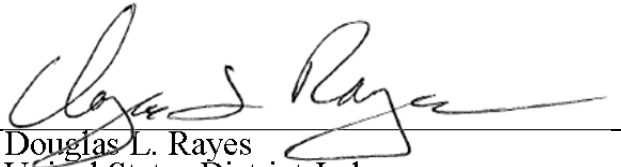
17 **IT IS ORDERED** that Magistrate Judge Aspey's R&R (Doc. 41) is **accepted and**
18 **adopted by the Court.**

19 **IT IS FURTHER ORDERED** that Petitioner's Petition for Writ of Habeas
20 Corpus (Doc. 1) is **denied** and **dismissed with prejudice.**

21 **IT IS FURTHER ORDERED** that a certificate of appealability and leave to
22 proceed *in forma pauperis* on appeal are denied.
23
24
25
26
27
28

1 **IT IS FURTHER ORDERED** that the Clerk of Court shall **terminate** this action.

2 Dated this 28th day of May, 2015.

3
4
5
6
7 
8 Douglas L. Rayes
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28